

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

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|----------------------------|---|---------------------|
| UNITED STATES OF AMERICA |) | |
| |) | CRIMINAL ACTION NO. |
| v. |) | 2:18cr238-MHT |
| |) | (WO) |
| CHARLES BRYANT HUGHES, JR. |) | |

ORDER

This cause is before the court on defendant Charles Bryant Hughes, Jr.'s motion to continue. For the reasons set forth below, the court finds that jury selection and trial, now set for November 5, 2018, should be continued pursuant to 18 U.S.C. § 3161(h)(7).

While the granting of a continuance is left to the sound discretion of the trial judge, see United States v. Stitzer, 785 F.2d 1506, 1516 (11th Cir. 1986), the court is limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Act provides in part:

"In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making

public) of the information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs."

§ 3161(c)(1). The Act excludes from the 70-day period any continuance based on "findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." § 3161(h)(7)(A). In granting such a continuance, the court may consider, among other factors, whether the failure to grant the continuance "would deny counsel for the defendant ... reasonable time necessary for effective preparation, taking into account the exercise of due diligence." § 3161(h)(7)(B)(iv).

The court concludes that, in this case, the ends of justice served by granting a continuance outweigh the interest of the public and Hughes in a speedy trial. Hughes represents that he is likely to plead guilty and

is currently negotiating with the government concerning a plea bargain, but that the parties need additional time to resolve all issues necessary to reach agreement. Because Hughes's counsel needs additional time to obtain a favorable plea bargain for her client, the refusal to grant a continuance would deny defense counsel reasonable time necessary for effective preparation for the resolution of the case. In addition, the government does not oppose the continuance, and the court finds no evidence of a lack of diligence.

Accordingly, it is ORDERED as follows:

(1) Defendant Charles Bryant Hughes, Jr.'s motion for continuance (doc. no. 24) is granted.

(2) The jury selection and trial, now set for November 5, 2018, are reset for December 3, 2018, at

10:00 a.m., in Courtroom 2FMJ of the Frank M. Johnson Jr. United States Courthouse Complex, One Church Street, Montgomery, Alabama.

DONE, this the 24th day of October, 2018.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE